

Message Text

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C O N F I D E N T I A L STATE 145480

E.O. 11652: GDS

TAGS: SHUM, ZA, US

SUBJECT: DRAFT HUMAN RIGHTS PLAN FOR ZAMBIA

REF: STATE 139160

1. DEPARTMENT WOULD APPRECIATE EMBASSY COMMENTS ON
FOLLOWING DRAFT COUNTRY PLAN BY JUNE 28. PLEASE SLUG FOR
AF DISTRIBUTION ONLY.

BEGIN TEXT: ZAMBIA IS ONE OF THE KEY STATES IN OUR
STRATEGY FOR PROMOTING THE PEACEFUL ATTAINMENT OF MAJORITY
RULE IN RHODESIA, SELF-DETERMINATION IN NAMIBIA AND
RACIAL JUSTICE IN SOUTH AFRICA. IF WESTERN INITIATIVES TO
THESE ENDS PROVE SUCCESSFUL, THE CAUSE OF HUMAN RIGHTS IN
AFRICA WILL PROFIT IMMEASURABLY. ANY DISCUSSION OF ZAMBIA
IN CONNECTION WITH HUMAN RIGHTS MUST PROCEED FROM THIS
INITIAL OBSERVATION .

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A. HUMAN RIGHTS CONDITIONS

THE 1973 ZAMBIAN CONSTITUTION GUARANTEES AN EXTENSIVE
CATALOGUE OF HUMAN RIGHTS. HOWEVER, THE CONSTITUTION ALSO
EXPRESSLY EXCLUDES FROM CONSTITUTIONAL PROTECTION ANY
POLITICAL ACTIVITY OUTSIDE THE SINGLE RECOGNIZED POLITICAL
PARTY. ARTICLES 26 AND 30 PROVIDE FOR THE SUSPENSION OF
MOST CONSTITUTIONAL PROTECTIONS DURING TIME OF WAR, OR
WHEN A STATE OF EMERGENCY OR THREATENED EMERGENCY HAS BEEN
DECLARED BY THE PRESIDENT. A MODIFIED STATE OF EMERGENCY

IS CONSIDERED TO HAVE BEEN IN EFFECT SINCE RHODESIA'S UDI IN 1965, AND A FULL STATE OF EMERGENCY HAS BEEN IN EFFECT SINCE JANUARY 28, 1976.

1. INTEGRITY OF THE PERSON

UNDER HIS EMERGENCY POWERS, THE PRESIDENT HAS WIDE DISCRETION TO DETAIN OR RESTRICT THE MOVEMENTS OF INDIVIDUALS. THOSE DETAINED ENJOY CERTAIN RIGHTS, AMONG THEM THE RIGHT TO RECEIVE NOTICE OF THE REASONS FOR DETENTION, PUBLICATION OF THE FACT OF DETENTION, ACCESS TO COUNSEL, AND THE RIGHT TO SEEK JUDICIAL REVIEW OF THIS DETENTION ORDER AFTER ONE YEAR. HOWEVER, HABEAS CORPUS IS NOT AVAILABLE UNDER PRESIDENTIAL DETENTION ORDER, AND THE DETAINING AUTHORITY IS NOT OBLIGED TO ACCEPT THE RECOMMENDATIONS OF THE JUDICIAL REVIEW TRIBUNAL. THE ZAMBIAN COURTS HAVE CONSISTENTLY UPHELD THE PRESIDENTIAL DETENTION POWER.

THERE IS NO RELIABLE ESTIMATE OF THE NUMBER OF PERSONS CURRENTLY UNDER PRESIDENTIAL DETENTION ORDER IN ZAMBIA, BUT IT IS UNLIKELY TO EXCEED THE 200 THOUGHT TO HAVE BEEN DETAINED IN MID-1976. THE PRESIDENT'S DETENTION POWERS HAVE BEEN USED IN RECENT YEARS AGAINST POLITICAL OPPONENTS; CONFIDENTIAL

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UNRULY RHODESIAN NATIONALISTS AND DISSIDENT NAMIBIAN OPPOSITIONISTS; COMMON CRIMINALS; STRIKING UNIVERSITY STUDENTS AND PROFESSORS; AND VIOLATORS OF CURRENCY CONTROL REGULATIONS. IN MOST CASES, DETAINEES ARE EITHER RELEASED OR FORMALLY CHARGED ONCE INVESTIGATION OF THEIR CASES IS COMPLETED, BUT A FEW HAVE BEEN CONTINUOUSLY DETAINED FOR MONTHS OR YEARS.

WE HAVE NO EVIDENCE OF TORTURE OR CRUEL AND DEGRADING PUNISHMENT IN ZAMBIAN JAILS, ALTHOUGH SUCH ALLEGATIONS WERE MADE IN THE CASE OF RHODESIAN NATIONALISTS DETAINED FOLLOWING A SPATE OF INTERNECINE VIOLENCE IN 1975. ZAMBIAN JAILS ARE ACKNOWLEDGED TO BE CROWDED AND UNSANITARY, BUT SOME RECENT IMPROVEMENT IS REPORTED.

RIGHTS TO A FAIR HEARING AND A FAIR TRIAL ARE GENERALLY OBSERVED, ALTHOUGH AS NOTED ABOVE NORMAL JUDICIAL SAFEGUARDS DO NOT APPLY IN THE CASE OF PRESIDENTIAL DETAINEES. HOWEVER, IN CASES COMING TO COURT THE FAMILIAR SAFEGUARDS OF ENGLISH COMMON LAW ARE PROVIDED, AND LAWYERS HANDLING EVEN SENSITIVE POLITICAL CASES HAVE EXPRESSED THEIR CONTINUING CONFIDENCE IN THE INDEPENDENCE OF THE ZAMBIAN JUDICIARY. INDIVIDUALS WHO CONSIDER THEIR RIGHTS HAVE BEEN OR ARE LIKELY TO BE CONTRAVENED THROUGH UNLAWFUL ARREST OR DETENTION MAY APPLY TO THE HIGH COURT FOR REDRESS; IN 1972 SEVERAL FORMER POLITICAL DETAINEES SUCCESSFULLY COLLECTED DAMAGES FOR ASSAULT AND FALSE

IMPRISONMENT.

IN A RELATED BUT DISTINCT MATTER WE LEARNED IN LATE SPRING THAT AT THE BEHEST OF THE SOUTH WEST AFRICAN PEOPLE'S ORGANIZATION (SWAPO) THE ZAMBIAN GOVERNMENT WAS HOLDING APPROXIMATELY 800-900 DISSIDENT NAMIBIANS IN A DETENTION CAMP. CONDITIONS AT THE CAMP, CHIEFLY THE LACK OF ADEQUATE FOOD AND MEDICAL CARE, WERE VERY BAD, DRIVING A NUMBER OF DETAINEES THERE TO ATTEMPT ESCAPE, WITH A FEW CONFIDENTIAL

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BEING KILLED IN ONE SUCH EPISODE.

SPURRED BY FOREIGN CONCERN AND PERHAPS ALSO BY SURFACING OF THE ISSUE OF POLITICAL PRISONERS IN THE NAMIBIAN NEGOTIATIONS, ZAMBIA AND SWAPO HAVE RECENTLY MOVED TO IMPROVE CONDITIONS AT THE CAMP. UNHCR HAS BEEN APPROACHED FOR ASSISTANCE, AND 200 DETAINEES HAVE BEEN MOVED TO A REFUGEE RESETTLEMENT AREA. FOOD AND MEDICAL CARE AT THE CAMP REPORTEDLY ARE BEING IMPROVED, AND IT SEEMS LIKELY THAT EFFORTS WILL BE MADE IN THE NEXT FEW MONTHS FURTHER TO REDUCE THE CAMP'S POPULATION AND PERHAPS TO CLOSE IT ENTIRELY.

2. CIVIL AND POLITICAL RIGHTS

FREEDOM OF EXPRESSION, ASSEMBLY AND POLITICAL ACTIVITY ARE CIRCUMSCRIBED BY THE CONSTITUTIONAL BAN ON ALL POLITICAL ACTIVITIES OR EXPRESSIONS OUTSIDE THE ONE-PARTY STRUCTURE. THE ZAMBIANS ASSERT THAT THE POLITICAL PROCESSES WITHIN UNIP (THE ONE LEGAL PARTY) CONSTITUTE "PARTICIPATORY DEMOCRACY." IN FACT, POLITICAL MANEUVERING BY FACTIONS WITHIN THE PARTY CAN BE INTENSE, ASSUMING AT TIMES THE APPEARANCE OF "PARTIES WITHIN THE PARTY."

MEDIA CRITICISM OF GOVERNMENT PERFORMANCE IS PERMITTED IF "CONSTRUCTIVE," BUT CRITICISM OF UNIP'S IDEOLOGY AND BASIC POLICIES IS NOT OFTEN TOLERATED. CRITICISM OF THE PRESIDENT IS PUNISHABLE BY FINE OR IMPRISONMENT. ALTHOUGH CENSORSHIP OF FOREIGN MATERIALS IS NOT STRINGENT, THE OVERALL TREND CLEARLY IS TO ESTABLISH MORE RATHER THAN LESS CONTROL OVER EDUCATION AND PUBLIC EXPRESSION.

FREEDOM OF RELIGION IS CONSTITUTIONALLY GUARANTEED AND CONFIDENTIAL

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STRONGLY SUPPORTED BY PRESIDENT KAUNDA. THE EXCEPTIONS HAVE BEEN THE LUMPA SECT, WHICH WAS BANNED IN 1964 FOLLOWING A SERIES OF BLOODY ANTI-GOVERNMENT RIOTS, AND ANOTHER SMALL SECT BANNED FOR ALLEGED SEXUAL IMMORALITY.

NO SYSTEMATIC PERSECUTION OF THE CONTROVERSIAL JEHOVAH'S

WITNESSES HAS BEEN REPORTED IN ZAMBIA, ALTHOUGH ZAMBIAN WITNESSES HAVE BEEN SUBJECTED TO CONSIDERABLE PUBLIC CRITICISM BY ZAMBIAN POLITICAL LEADERS, AND SOME LOCALIZED HARASSMENT UNDOUBTEDLY HAS OCCURRED.

3. ECONOMIC RIGHTS

IN TIMES OF HIGH COPPER PRICES, ZAMBIA (WITH A 1975 PER CAPITA GNP OF DOLS 540) IS ONE OF THE MORE FORTUNATE AFRICAN COUNTRIES, AND HAS HAD THE RESOURCES TO PERMIT DELIVERY OF FAIRLY SUBSTANTIAL SERVICES TO THE POPULACE. WHILE BY NO MEANS UNCORRUPT, THE GOVERNMENT IS ABOVE THE AFRICAN AVERAGE IN THIS REGARD. PRESIDENT KAUNDA HAS ACTIVELY SOUGHT TO COMMUNICATE HIS OWN PERSONAL HONESTY TO GOVERNMENT OFFICIALS, AND TO ENFORCE IMPROVED STANDARDS OF CONDUCT ON THEM.

UNDER CURRENT CONDITIONS (DEPRESSED COPPER PRICES, SEVERE BUDGET AND BALANCE OF PAYMENTS PROBLEMS, STRICT IMPORT CONTROLS), SHORTAGES AND RAPIDLY RISING RETAIL PRICES WORK CONSIDERABLE HARDSHIP ON THOSE ORDINARY ZAMBIANS WHO ARE INVOLVED IN THE MONEY ECONOMY. PRESIDENT KAUNDA RECENTLY PRESIDED OVER A CABINET RESHUFFLE WHICH HE SAID WAS MOTIVATED IN LARGE PART BY HIS DESIRE TO PUT AN END TO THE SHORTAGES. KAUNDA HAS ALSO APPROVED A 1977 BUDGET WHICH REFLECTS CONSIDERABLE AUSTERITY IN SPENDING AND AN EMPHASIS ON DIVERSIFICATION, PARTICULARLY IN AGRICULTURE. IF CARRIED THROUGH, THE DIVERSIFICATION EFFORT SHOULD HELP TO REDUCE THE IMPACT OF SUCCEEDING CYCLICAL LOWS IN THE VOLATILE COPPER

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MARKET.

4. GOVERNMENT RESPONSIBILITY AND OPENNESS

THE ZAMBIAN GOVERNMENT IS SUBSTANTIALLY IN CONTROL OF EVENTS WITHIN ZAMBIA, AND UNIP ATTEMPTS TO EXTEND ITS INFLUENCE DOWN TO THE GRASS ROOTS THROUGH A HIGHLY ORGANIZED PARTY STRUCTURE. NEVERTHELESS, GOVERNMENT AND PARTY FEEL UNDER SOME DURESS AS A RESULT OF EVENTS ON ZAMBIA'S PERIPHERY AND ARGUE THAT THE NEED FOR SOME OF THE TIGHT CONTROLS WHICH HAVE BEEN INSTITUTED RESULTS FROM EXTERNAL FACTORS.

WHILE THE GRZ CONTROLS INFORMATION MEDIA WITHIN ZAMBIA, IT MAINTAINS A FAIRLY LIBERAL POLICY TOWARD FOREIGN JOURNALISTS. VISA APPLICATIONS BY REPORTERS ARE REFERRED TO LUSAKA, BUT ARE GENERALLY APPROVED. THERE HAS BEEN NO ATTEMPT TO CENSOR OUTGOING DESPATCHES IN RECENT YEARS,

NOR HAS THE ZAMBIAN GOVERNMENT SOUGHT TO PRESSURE FOREIGN CORRESPONDENTS TO MODIFY THEIR REPORTING.

B. ANALYSIS AND RECOMMENDATIONS

1. HUMAN RIGHTS OBJECTIVES

AS MENTIONED ABOVE, ANY DEFINITION OF OUR HUMAN RIGHTS OBJECTIVES WITH RESPECT TO ZAMBIA IS INSEPARABLE FROM OUR OBJECTIVES WITH RESPECT TO RHODESIA, NAMIBIA AND SOUTH AFRICA. THE IMPORTANT ZAMBIAN ROLE IN OUR EFFORTS IN THE REGION MUST SHAPE AND CONSTRAIN OUR ATTEMPTS TO OBTAIN IMPROVEMENT IN ZAMBIA'S OWN PATTERN OF HUMAN RIGHTS OBSERVANCE. WITHIN THESE LIMITS NEVERTHELESS, CONFIDENTIAL

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WE SEEK IMPROVEMENT IN THE ZAMBIAN PERFORMANCE, PARTICULARLY IN THE AREA OF DETENTION WITHOUT TRIAL.

2. LIKELY U.S. INFLUENCE

THE IMPROVEMENT IN U.S.-ZAMBIAN RELATIONS OVER THE PAST SEVERAL YEARS IS A DIRECT REFLECTION OF WHAT THE ZAMBIAIS SEE AS A POSITIVE SHIFT IN OUR SOUTHERN AFRICA POLICY. OUR RELATIVELY SMALL BUT HIGHLY EFFECTIVE AID PROGRAM--IN RESPONSE TO URGENT ZAMBIAN PLEAS FOR ASSISTANCE LAST YEAR--ALSO HAS HAD A SIGNIFICANT POSITIVE EFFECT ON THE ATTITUDE OF THE ZAMBIAN GOVERNMENT. AND ALTHOUGH HE PUBLICLY DECRIES BOTH CAPITALISM AND COMMUNISM AS UNSUITED TO AFRICAN NEEDS, PRESIDENT KAUNDA IS PRIVATELY MUCH MORE AT HOME WITH THE WEST.

WE CAN EXPECT LITTLE THIRD-COUNTRY SUPPORT FOR ANY HUMAN RIGHTS EFFORTS VIS-A-VIS ZAMBIA. MANY AFRICAN STATES' RECORDS ARE FAR WORSE THAN ZAMBIA'S, AND EVEN THOSE WITH RELATIVELY CLEAN SLATES GENERALLY REFUSE TO INTERVENE IN THE INTERNAL AFFAIRS OF OTHERS. THE CONCERNED NATIONS OF THE WEST BY AND LARGE STRESS THEIR LARGER INVOLVEMENT IN SOUTHERN AFRICA, AND WOULD PROBABLY ARGUE THAT ZAMBIAN SUPPORT FOR A PEACEFUL SETTLEMENT OF THE PROBLEMS OF THE REGION IS TOO IMPORTANT TO RISK ALIENATING THEM OVER LESS IMPORTANT MATTERS.

3. OPTIONS

WE HAVE NOT LISTED BELOW ANY OF THE MORE SEVERE COURSES OF ACTION WHICH MIGHT BE CONTEMPLATED IN OTHER CIRCUMSTANCES, BECAUSE WE FEEL OUR WIDER CONCERNS ARE OF SUCH IMPORTANCE AS TO MAKE SUCH OPTIONS IRRELEVANT. WE COULD, HOWEVER:

A. PRIVATELY URGE ZAMBIA TO MINIMIZE ITS USE OF
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DETENTION WITHOUT TRIAL, POINTING OUT THAT IT PLAYS INTO
THE HANDS OF THE RHODESIANS AND OTHERS WHO GAIN POLITICAL
CAPITAL BY DENOUNCING THE "LAWLESSNESS" OF BLACK AFRICAN
STATES.

B. URGE ZAMBIA TO CONTINUE AND ACCELERATE ITS EFFORTS
TO DISPERSE THE SWAPO DISSIDENTS DETAINED AT MBOROMA,
WARNING THAT THEIR CONTINUED DETENTION COULD BE INTENSELY
EMBARRASSING TO ZAMBIA IN THE CONTEXT OF EFFORTS TOWARD
A NAMIBIA SETTLEMENT.

C. ENCOURAGE UNHCR TO WORK TO IMPROVE THE CIRCUMSTANCES
OF THE SWAPO DETAINEES; CONSIDER REQUIREMENTS FOR THIS
PURPOSE IN CALCULATING OUR CONTRIBUTION TO UNHCR.

AND IN ANY CASE, WE SHOULD CONTINUE OUR EFFORTS TOWARD
PEACEFUL SETTLEMENTS IN RHODESIA AND NAMIBIA, IN THE
BELIEF THAT THE REDUCTION OF TENSION ON ZAMBIA'S PERI-
PHERY WHICH WOULD RESULT FROM THIS WOULD PROBABLY DO MORE
THAN ANY FEASIBLE BILATERAL STEPS TO LAY THE GROUNDWORK
FOR IMPROVED ZAMBIAN HUMAN RIGHTS PERFORMANCE.

4. EFFECTIVENESS AND IMPACT ON OTHER U.S. INTERESTS

WHILE WE ARE NOT WITHOUT INFLUENCE IN ZAMBIA TODAY,
THE ZAMBIANS HAVE SHOWN NO DISPOSITION TO BE CONCILIATORY
ON ISSUES WHERE THEY FEEL MATTERS OF PRINCIPLE ARE
INVOLVED. IT SEEMS LIKELY THAT ANY VERY STRONG U.S.
EFFORT TO EFFECT A CHANGE IN ZAMBIAN INTERNAL POLICIES
WOULD MEET A STRONGLY NEGATIVE REACTION. WE WOULD BE DE-
NOUNCED FOR INTERFERING IN ZAMBIAN INTERNAL AFFAIRS AND
FOR OUR IGNORANCE OF ZAMBIA'S LEGITIMATE INTERNAL
SECURITY CONCERNS. AT A MINIMUM, A CONTENTIOUS ISSUE
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WOULD BE RAISED IN U.S.-ZAMBIAN RELATIONS AT A TIME WHEN
IT IS CRUCIAL TO KEEP OUR CHANNELS OF COMMUNICATION AS
OPEN AS POSSIBLE. IF OUR EFFORTS WERE CARRIED TO AN
EXTREME, OUR HARD-WON CREDIBILITY WITH THE ZAMBIANS
COULD BE SEVERELY COMPROMISED. THE IMPACT, IN TERMS
OF OUR SOUTHERN AFRICAN INITIATIVES, COULD BE CRIPPLING.
CHRISTOPHER

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